

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments address issues arising in the implementation of the Electronic Health Record (EHR) Incentive Program effective January 1, 2011. This federal program was authorized by the American Recovery and Reinvestment Act of 2009 (ARRA) to provide incentive payments for the adoption, upgrade, and meaningful use of certified electronic health record technology. These amendments:

- Change the reporting period used for calculating the aggregate electronic health record hospital incentive amount to the hospital’s fiscal year, instead of the state fiscal year. Although many hospitals have the same fiscal year as the state, hospitals are not required to do so. With the proposed change, all hospitals will be able to use their cost report data without having to recalculate the data to conform to the state fiscal year, and the burden of verifying these calculations will be greatly reduced.
- Specify use of the hospital’s fiscal year as the period for calculating the Medicaid share of the aggregate amount for the same reasons.
- Clarify that a provider must satisfy all the criteria in subrule 79.16(2) to be eligible for the EHR Incentive Program.
- Add a definition of “pediatrician” to clarify which physicians may qualify for the incentive with 20 percent Medicaid patient volume instead of 30 percent.

These amendments do not provide for waivers in specified situations. Providers may request the waiver of any rule under the Department’s general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on March 23, 2011, as **ARC 9431B**. The Department received no written comments on the Notice of Intended Action. In response to a comment from the Medical Assistance Advisory Council, the Department has made a change to the amendments published under Notice of Intended Action to reflect that pediatric certification may also be issued by the American Osteopathic Board of Pediatrics. The proposed language in numbered paragraph 79.16(2)“c”(1)“1” has been revised and now reads as follows: “For purposes of this subrule, a ‘pediatrician’ is a physician who is board-certified in pediatrics by the American Board of Pediatrics or the American Osteopathic Board of Pediatrics or who is eligible for board certification.”

The Council on Human Services adopted these amendments on May 11, 2011.

The Department finds that these amendments confer a benefit on Medicaid providers that are applying for EHR incentives by streamlining procedures and clarifying standards. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments became effective on May 12, 2011.

The following amendments are adopted.

ITEM 1. Amend subrule 79.16(1) as follows:

79.16(1) State elections. In addition to the statutory provisions in ARRA Section 4201 ~~of the ARRA~~, the electronic health record incentive program is governed by federal regulations at 42 CFR Part 495 as published in the Federal Register, Vol. 75, No. 144, on July 28, 2010. In compliance with the requirements of federal law, the department establishes the following state options under the Iowa electronic health record incentive program:

a. and b. No change.

c. For purposes of 42 CFR Section 495.310(g)(1)(i)(B) as amended to July 28, 2010, the “12-month period selected by the state” shall mean the state hospital fiscal year.

d. For purposes of 42 CFR Section 495.310(g)(2)(i) as amended to July 28, 2010, the “12-month period selected by the state” shall mean the hospital fiscal year.

ITEM 2. Amend subrule 79.16(2) as follows:

79.16(2) *Eligible providers.* To be deemed an “eligible provider” for the electronic health record incentive program, a provider must satisfy the ~~following criteria~~ applicable criterion in each paragraph of this subrule:

a. and b. No change.

c. For the year for which the provider is applying for an incentive payment:

(1) An acute care hospital must have 10 percent Medicaid patient volume.

(2) An eligible professional must have at least 30 percent of the professional’s patient volume covered by Medicaid, except that:

1. A pediatrician must have at least 20 percent Medicaid patient volume. For purposes of this subrule, a “pediatrician” is a physician who is board-certified in pediatrics by the American Board of Pediatrics or the American Osteopathic Board of Pediatrics or who is eligible for board certification.

2. No change.

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